

In the Matter Of:

DUNIGAN vs OFFICER NUGENT, ET AL.

CHARLES F. LANDERS, M.D.

February 09, 2018

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<p style="text-align: right;">Page 29</p> <p>1 Q. (By Mr. O'Loughlin) Right. And I am just 2 trying to narrow it to that and make sure that I am 3 not missing anything because you do understand that 4 this is my only opportunity to learn your opinions 5 before trial?</p> <p>6 A. I understand that. And my intent is to 7 focus as mentioned.</p> <p>8 Q. Okay. Do you have any opinions as to 9 violations of the standard of care on the part of 10 any of the licensed health care professionals, 11 physicians, EMTs, nurses, radiologists or anyone 12 else who was a licensed health care professional 13 involved in Mr. Dunigan's care on May 6, 2016?</p> <p>14 A. No, and that would include the unlicensed 15 employees of the hospital and Bronson, like the 16 registration people as well.</p> <p>17 Q. Okay. Do you have any opinion as to 18 whether the health care professionals involved in 19 Mr. Dunigan's care from the presentation at the 20 emergency department through the time that Mr. 21 Dunigan was discharged to the waiting room, in that 22 period of time, do you have any opinion as to 23 whether any of those people in any way violated 24 EMTALA?</p> <p>25 A. I have no opinion about that.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. But you are the one we are deposing today 2 so I just want to confirm what your opinions are. 3 You mentioned another item. Based upon your review 4 of the medical records themselves over the time 5 period I have talked about, in other words, up 6 through the time Mr. Dunigan was wheeled into the 7 waiting room, was his condition stable?</p> <p>8 A. It was felt to be by the people providing 9 care. And the extent to which it may have been life 10 threatening was not evaluated. And they didn't -- 11 there were many things that weren't done. They 12 focused only on the presenting complaint.</p> <p>13 Q. What was the presenting complaint?</p> <p>14 A. It was referred to by the triage nurse as 15 flank pain and chest pain by the EMTs and by the 16 emergency physician Dr. Rigot.</p> <p>17 Q. And what was the history of that 18 complaint?</p> <p>19 A. On the preceding day, Thursday, he had 20 been on a bus and fell striking his chest and hip on 21 concrete, and subsequent to then, had increasing 22 pain, up to 9 on a scale of 10, which was 23 intolerable, and led to his calling for the 24 paramedics to bring him in as seen on the tapes. He 25 felt he was bleeding inside.</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. Do you know what EMTALA is?</p> <p>2 A. Yes.</p> <p>3 Q. What is your understanding of what EMTALA 4 is?</p> <p>5 A. In general terms it is an anti-dumping 6 federal law that for the individual facility that 7 involves evaluating medically any person who seeks 8 attention.</p> <p>9 Q. From your review of the records of Mr. 10 Dunigan's emergency room care, in other words, the 11 the medical records, did you make a determination as 12 to whether his presenting condition was life 13 threatening?</p> <p>14 A. I think on presentation it was potentially 15 life threatening.</p> <p>16 Q. Was it a condition which in your opinion 17 if not treated at that time was likely to cause his 18 death or serious impairment, again as of the time of 19 presentation?</p> <p>20 A. He was evaluated but not treated, and he 21 was perceived to be stable by the health care 22 providers at that time. The standard of care issues 23 regarding their performance, my understanding is, 24 will be addressed by a plaintiff's emergency room 25 physician.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. And was there any evidence that he was 2 bleeding inside?</p> <p>3 A. On subsequent evaluation with x-rays did 4 not reveal that. He didn't have any lab work done. 5 But on exam and x-rays he was felt not to be 6 bleeding inside.</p> <p>7 Q. Were his vital signs stable?</p> <p>8 A. His vital signs were abnormal when he 9 arrived. They were repeated when his heart rate 10 dropped from 113 to 90. He had no vitals done prior 11 to discharge as would be the usual case in my 12 experience.</p> <p>13 Q. With the repeat vitals and the heart rate 14 of 90, were the vital signs within normal range?</p> <p>15 A. Yes. They were improved and normal.</p> <p>16 Q. Would it be accurate to say that you did 17 not find Mr. Dunigan to have a life threatening 18 condition from the time he came to the emergency 19 department to the time he was taken to the waiting 20 room?</p> <p>21 A. We have limited information. I don't have 22 enough information to say with confidence that he 23 didn't have a serious or life threatening problem. 24 The focused evaluation regarding his initial 25 complaint did not appear to be life threatening to</p>

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<p style="text-align: right;">Page 33</p> <p>1 the providers. I understand that.</p> <p>2 Q. Are you aware of any evidence that any of</p> <p>3 the health care providers thought that Mr. Dunigan</p> <p>4 had a life threatening condition during that time</p> <p>5 frame?</p> <p>6 A. No. I believe they did not think he had a</p> <p>7 life threatening problem. I understand that.</p> <p>8 Q. What is your understanding as to Mr.</p> <p>9 Dunigan's cause of death?</p> <p>10 A. He had a change in status after his</p> <p>11 discharge from the emergency room, and while waiting</p> <p>12 in the waiting area and during the logistics of</p> <p>13 eviction and subsequent transfer to the police</p> <p>14 vehicle and to jail. He was without vitals signs</p> <p>15 when checked at the jail and died in transit.</p> <p>16 The explanation of that I included in my</p> <p>17 report and I continue to have as my opinion is that</p> <p>18 he had multiple severe medical problems with</p> <p>19 physical and mental impairments, and that the actual</p> <p>20 cause of the death was an altered level of</p> <p>21 consciousness with several potential causes</p> <p>22 including metabolic derangements seen in diabetes</p> <p>23 and with renal failure, arrhythmia through metabolic</p> <p>24 changes in the setting of critical coronary disease,</p> <p>25 pulmonary edema and multiple drugs on board.</p>	<p style="text-align: right;">Page 35</p> <p>1 when he was due to be dialyzed.</p> <p>2 Q. What is your understanding of when Mr.</p> <p>3 Dunigan was last dialyzed?</p> <p>4 A. I don't have a precise date. He was in</p> <p>5 Borgess recently. The emergency room physician</p> <p>6 thought he just been discharged within days. There</p> <p>7 is no specific mention of when he had last been</p> <p>8 dialyzed. But he had been dialysed twice a week</p> <p>9 there. He was due to be dialyzed on the day that he</p> <p>10 died, so that would, under normal circumstances,</p> <p>11 mean he had not been dialyzed for the two preceding</p> <p>12 days at least.</p> <p>13 Q. And did you note that the history he gave</p> <p>14 was that he had been dialyzed twice that week --</p> <p>15 A. Yes.</p> <p>16 Q. -- and was scheduled later that day?</p> <p>17 A. That he got it twice at Borgess but it</p> <p>18 didn't say, to my recollection, which days that</p> <p>19 week. But in a normal circumstance, he was</p> <p>20 scheduled for Friday. And he was a three times a</p> <p>21 week dialyzed patient, so it would normally be on</p> <p>22 Monday, Wednesday, Friday.</p> <p>23 Q. That would be a reasonable conclusion from</p> <p>24 him saying he had been dialyzed twice that week and</p> <p>25 was scheduled later that day on Friday?</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Are you able to say which of those</p> <p>2 conditions actually caused his death?</p> <p>3 A. Well, ultimately it is a cardiac arrest,</p> <p>4 cardiopulmonary arrest with arrhythmia. The only</p> <p>5 arrhythmia documented in the jail attempted</p> <p>6 resuscitation was something called pulseless</p> <p>7 electrical activity. And prior to having a monitor</p> <p>8 and the medical personnel arriving 15 minutes after</p> <p>9 his recognized loss of vitals, he had an automated</p> <p>10 electrical defibrillator applied which did not</p> <p>11 identify a shockable arrhythmia which is consistent</p> <p>12 with the pulseless electrical activity. I think</p> <p>13 that was the ultimate thing that lead to his death</p> <p>14 at that time.</p> <p>15 Q. An arrhythmia?</p> <p>16 A. It is an arrhythmia, yes. Actually it is</p> <p>17 -- there is rhythm on an electrical basis without</p> <p>18 pulse. It is a cause of the sudden death referred</p> <p>19 to as an arrhythmia.</p> <p>20 Q. Given Mr. Dunigan's history of end stage</p> <p>21 renal disease, diabetes, coronary artery disease and</p> <p>22 other cardiovascular disease, would he have been at</p> <p>23 an increased risk to suffer an arrhythmia at any</p> <p>24 time?</p> <p>25 A. Yes, particularly on the days prior to</p>	<p style="text-align: right;">Page 36</p> <p>1 A. I am not sure he said twice that week. I</p> <p>2 thought he said he had it twice at Borgess. He may</p> <p>3 have said twice that week but I think that is a</p> <p>4 reasonable scheduling interval. He would not</p> <p>5 normally be dialyzed on Sunday.</p> <p>6 Q. And not to quibble with the facts, but if</p> <p>7 you assume that the emergency department report by</p> <p>8 Dr. Rigot says, under history of present illness,</p> <p>9 patient admitted discharged from Borgess recently,</p> <p>10 had dialysis twice this week while there. Scheduled</p> <p>11 dialysis tomorrow, open paren, Friday, close paren,</p> <p>12 would it be reasonable from that history to assume</p> <p>13 that he had dialysis twice that week and was</p> <p>14 scheduled to have it again that same day, later in</p> <p>15 the day on Friday?</p> <p>16 A. Yes. Thank you for clarifying that week,</p> <p>17 but when he says he is due to have it tomorrow, it</p> <p>18 is always a question in the middle of the night what</p> <p>19 you call which day. Is that the same day he was</p> <p>20 being seen between 2:00 and 4:00 a.m.</p> <p>21 Q. So given that uncertainty, is it correct</p> <p>22 it would be appropriate for the person taking the</p> <p>23 history to specifically note that tomorrow meant</p> <p>24 Friday because the patient was being seen in the</p> <p>25 middle of the night or early in the morning on</p>

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<p style="text-align: right;">Page 45</p> <p>1 which the following proceedings were held:)</p> <p>2 Q. (By Mr. O'Loughlin) We can go back on the</p> <p>3 record.</p> <p>4 Doctor, from your review of the video or</p> <p>5 any other information that you have relating to this</p> <p>6 case, are you aware of any evidence that Mr. Dunigan</p> <p>7 after he is taken to the waiting room was ever asked</p> <p>8 to be seen again by a health care professional?</p> <p>9 A. People have said he did not, and there was</p> <p>10 no indication. On the films I had, it was all</p> <p>11 visual, not audio, but I have no indication that he</p> <p>12 did ask to be seen again.</p> <p>13 Q. You would agree that Mr. Dunigan in the</p> <p>14 waiting room up until the time he was asked to leave</p> <p>15 was able to ambulate without the assistance of any</p> <p>16 other person?</p> <p>17 MR. HARRINGTON: Objection to form and</p> <p>18 foundation.</p> <p>19 THE WITNESS: Yes. He required mechanical</p> <p>20 assistance from his cane and furniture but there</p> <p>21 were no other personnel assisting him.</p> <p>22 Q. (By Mr. O'Loughlin) Doctor, from your</p> <p>23 review of the video in the waiting room up until the</p> <p>24 time he was asked to leave, did you make an opinion</p> <p>25 as to whether Mr. Dunigan exhibited any difficulty</p>	<p style="text-align: right;">Page 47</p> <p>1 or the police officers about any medical problems?</p> <p>2 A. They said that he did not. That is the</p> <p>3 information I have. The only time he made a comment</p> <p>4 that was worrisome is when they wanted him to stand</p> <p>5 up, and he said that his legs weren't ready and he</p> <p>6 could not stand.</p> <p>7 Q. Up to that point had you seen or heard</p> <p>8 anything, or are you aware of any evidence that Mr.</p> <p>9 Dunigan ever complained of any medical condition or</p> <p>10 asked for care for any medical treatment?</p> <p>11 A. I am not aware of a request or a</p> <p>12 complaint.</p> <p>13 Q. Are you aware of any time after he went to</p> <p>14 the waiting room that Mr. Dunigan again presented to</p> <p>15 the emergency department seeking care for a medical</p> <p>16 condition?</p> <p>17 A. That is to me the same question. He did</p> <p>18 not as far as I know.</p> <p>19 Q. Up to the time that Mr. Dunigan was placed</p> <p>20 in the police car, are you aware of any evidence</p> <p>21 that he experienced any respiratory distress?</p> <p>22 A. No. I am not aware of any respiratory</p> <p>23 distress. Unfortunately, the video of his upper</p> <p>24 body is blocked by the trauma emergency room sign</p> <p>25 but I have no information about respiratory</p>
<p style="text-align: right;">Page 46</p> <p>1 or distress?</p> <p>2 A. He was in not in obvious distress. He was</p> <p>3 somnolent and sleeping with diminished level of</p> <p>4 consciousness much of the time, but there was no</p> <p>5 obvious distress to my review. And there was no</p> <p>6 disruptive behavior.</p> <p>7 Q. I am sorry. But from your review of that</p> <p>8 video up until the time he was asked to leave, did</p> <p>9 it appear that Mr. Dunigan was at times trying to</p> <p>10 sleep in chairs or a chair in different locations?</p> <p>11 MR. HARRINGTON: Object to form and</p> <p>12 foundation.</p> <p>13 THE WITNESS: That appeared to be the</p> <p>14 case. He would move from one single chair to a</p> <p>15 double chair and put his leg up over the rails and</p> <p>16 had his head down. It didn't look like he slept</p> <p>17 much because he was periodically moving to try to</p> <p>18 get more comfortable, it looked like.</p> <p>19 Q. (By Mr. O'Loughlin) Would you consider</p> <p>20 that normal behavior for anybody attempting to sleep</p> <p>21 in chairs in a waiting room, or an airport or any</p> <p>22 place like that?</p> <p>23 A. I think it is common behavior, yes.</p> <p>24 Q. Are you aware of any evidence that Mr.</p> <p>25 Dunigan ever made a complaint to security officers</p>	<p style="text-align: right;">Page 48</p> <p>1 distress.</p> <p>2 Q. Up to the time he was placed in the police</p> <p>3 car, are you aware of any evidence indicating that</p> <p>4 Mr. Dunigan lost consciousness?</p> <p>5 A. Only the diminished level of consciousness</p> <p>6 associated with sleep is what I am aware of.</p> <p>7 Q. Okay. Up to the time he was placed in the</p> <p>8 police car, are you aware of any evidence that Mr.</p> <p>9 Dunigan was obtunded, O-B-T-U-N-D-E-D?</p> <p>10 A. Again, it is an interpretation of someone</p> <p>11 who has diminished level of consciousness. I</p> <p>12 thought he was most likely asleep, not obtunded.</p> <p>13 Obtunded to me means he is unarousable, but if no</p> <p>14 one is checking I can't tell what his real level of</p> <p>15 consciousness is.</p> <p>16 Q. Are you aware of evidence that he was</p> <p>17 speaking with the security officers and the police</p> <p>18 officers?</p> <p>19 A. He did speak some. They said he was</p> <p>20 mumbling a lot. The main thing I recall is when</p> <p>21 they asked him to leave, he asked to be taken to</p> <p>22 jail. I guess that was interpretable because it was</p> <p>23 also overheard by people at the triage registration</p> <p>24 desk.</p> <p>25 Q. You would not interpret that statement as</p>

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<p style="text-align: right;">Page 65</p> <p>1 understand why they didn't interpret it that way. 2 Q. But you are concerned that they didn't 3 interpret it that way, true? 4 A. Why else would he have called himself a 5 scape goat from the security guards in regards to 6 the police officers' testimony that he was 7 sandbagged by information that was inaccurate. 8 Shoemaker said he was up walking around without 9 assistance. Shoemaker wasn't even there. 10 Q. Do you recall my question? 11 A. Yes. 12 Q. Would you answer it please? 13 A. I just did. 14 MR. HARRINGTON: Asked and answered. 15 Q. (By Mr. O'Loughlin) My question was, I 16 believe, Doctor, I heard you are concerned that 17 neither the security officers nor the police 18 officers believed and recognized that Mr. Dunigan 19 was in -- had some serious medical problem? 20 A. What's the question? There was no 21 question in that. 22 Q. Do you agree -- you would agree that 23 neither the security officers nor the police 24 officers actually recognized that Mr. Dunigan had 25 any sort of medical problem, true?</p>	<p style="text-align: right;">Page 67</p> <p>1 follow directions. I have no indications he did 2 not. 3 Q. Was Mr. Dunigan, as a presumed reasonable 4 person, obligated to advise someone if he was having 5 a severe medical problem? 6 A. If he was capable of it, yes. 7 Q. And was able to do so? 8 A. Right. If he was capable of it. 9 Q. Based upon your review, are you aware of 10 whether Mr. Dunigan was compliant with his 11 recommended dialysis schedule? 12 A. There are references in the Borgess record 13 that he, at times, was not compliant with his 14 dialysis schedule or other things. 15 Q. Do you agree that he did have end of stage 16 renal disease? 17 A. Yes. 18 Q. Probably to effect the result of not 19 complying with a dialysis schedule to be with a 20 patient with end stage renal disease? 21 A. He was still making urine and taking 22 diuretics, and it is not clear what the consequences 23 of skipping a dialysis session were in those 24 records. 25 Q. Are you talking in general that would</p>
<p style="text-align: right;">Page 66</p> <p>1 A. I think they did not recognize it. 2 Q. You think they did not recognize it, is 3 that what you said? 4 A. Yes. I have said that right along. 5 Q. In your expert opinion, did Mr. Dunigan 6 have any responsibility for the events in this case? 7 MR. HARRINGTON: Objection to form and 8 foundation, broad, vague, ambiguous. 9 THE WITNESS: I think he is not the 10 responsible party. 11 Q. (By Mr. O'Loughlin) Based upon all you 12 have reviewed, you are of the opinion Mr. Dunigan is 13 not responsible for any of the events in this case? 14 MR. HARRINGTON: Objection to form and 15 foundation. I am sorry, counsel, it is really, 16 really broad. I don't know what you mean. 17 THE WITNESS: There are a lot of events, 18 what time are you talking about? 19 Q. (BY Mr. O'Loughlin) Was Mr. Dunigan 20 obligated in your opinion to provide an accurate 21 medical history in the emergency room? 22 A. Yes. 23 Q. Was Mr. Dunigan, in your opinion, 24 obligated to the follow sufficient recommendations? 25 A. Yes. I think he has some obligations to</p>	<p style="text-align: right;">Page 68</p> <p>1 affect the consequences of failure in keeping to the 2 dialysis schedule to be a patient with end stage 3 renal disease would be? 4 A. He could feel worse at the time when he 5 didn't get his dialysis from fluid overload or other 6 issues related to his health. 7 Q. The article that you chose to look at from 8 the National Kidney Foundation, you believe that to 9 be authoritative? 10 A. Not necessarily. It is intended for 11 patients, and it gives broad answers to frequently 12 asked questions. 13 Q. Do you believe it is reliable? 14 A. I think it is a reliable source. And I 15 have no reason to think it is not reliable. It is 16 not authoritative. It doesn't have the authors and 17 the references to each and every comment made in it. 18 Q. Actually it has, Doctor. It has about 167 19 references, does it not? 20 A. No. It is four pages and no references. 21 Q. Oh, I am sorry. I was looking at the 22 UpToDate information. The UpToDate information has 23 167 references, true? 24 A. Yes. It is a different style document 25 from the electronic data base.</p>

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<p style="text-align: right;">Page 129</p> <p>1 EMTALA statute say?</p> <p>2 A. I am not an experienced person with it. I</p> <p>3 wouldn't pretend to be an expert. I have been</p> <p>4 instructed about how to apply it to my practice and</p> <p>5 I know the emergency room facility people have been</p> <p>6 instructed about how to apply it to them.</p> <p>7 Q. What does EMTALA stand for?</p> <p>8 A. It is not -- in broad lay terms, it is a</p> <p>9 no dumping law where if somebody comes to you, you</p> <p>10 can't just send them away without having at least</p> <p>11 done a screening medical evaluation if they request</p> <p>12 it.</p> <p>13 Q. Do you understand that EMTALA is an</p> <p>14 acronym?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know what it is an acronym for?</p> <p>17 A. It is emergency medicine treatment and</p> <p>18 then I don't know the rest of the numbers or names.</p> <p>19 It is not too important to me.</p> <p>20 Q. Do you know what the statute says?</p> <p>21 A. I told you what I have been told. I have</p> <p>22 not read the law and I do not know what the statute</p> <p>23 says. I have had it interpreted to me by risk</p> <p>24 management people for the hospital as well as</p> <p>25 emergency, the head of the emergency room who deal</p>	<p style="text-align: right;">Page 131</p> <p>1 symptoms, such that the absence of immediate medical</p> <p>2 attention would be expected to result in his death,</p> <p>3 true?</p> <p>4 A. No. In 9 and out of 10 pain --</p> <p>5 Q. True?</p> <p>6 A. He had 9 out of 10 chest pain and I think</p> <p>7 you cannot say based on his presentation that he</p> <p>8 didn't have anything life threatening. That's why</p> <p>9 he was there.</p> <p>10 Q. Okay. But you are not, as I understood</p> <p>11 earlier, you are not critical of the evaluation he</p> <p>12 received in the emergency department, are you?</p> <p>13 A. I am not. You are talking about when he</p> <p>14 presented.</p> <p>15 Q. And what you are saying that his symptoms</p> <p>16 of 9 out of 10 chest pain in and of themselves could</p> <p>17 be a life-threatening condition?</p> <p>18 A. Sure. In a complicated man with</p> <p>19 dialysis, diabetes, heart disease, hypertension and</p> <p>20 previous stroke and dizzy.</p> <p>21 Q. And with the specific history he gave of a</p> <p>22 mechanical fall and trauma to his chest or flank,</p> <p>23 would that explain the source of those same</p> <p>24 complaints?</p> <p>25 A. That was the emergency room physician's</p>
<p style="text-align: right;">Page 130</p> <p>1 with it every day. My kind of involvement was with</p> <p>2 inner facility transport, transfers.</p> <p>3 Q. Do you claim that EMTALA was in any way</p> <p>4 violated by Bronson Hospital up to the point that</p> <p>5 Mr. Dunigan was discharged from the emergency</p> <p>6 department and wheeled into the waiting room?</p> <p>7 A. No.</p> <p>8 Q. I think this was covered earlier but I</p> <p>9 should cover it again. Do you know of any evidence</p> <p>10 that while on Bronson's premises any Bronson</p> <p>11 employee actually recognized and had actual</p> <p>12 knowledge that Mr. Dunigan had an emergency medical</p> <p>13 condition?</p> <p>14 MR. HARRINGTON: Form and foundation.</p> <p>15 THE WITNESS: No. It is their subsequent</p> <p>16 testimony that they did not think he had an</p> <p>17 emergency.</p> <p>18 Q. (By Mr. O'Loughlin) You are not aware of</p> <p>19 any evidence to the contrary, true?</p> <p>20 MR. HARRINGTON: Foundation and form.</p> <p>21 THE WITNESS: About their thoughts, I have</p> <p>22 no other information.</p> <p>23 Q. (By Mr. O'Loughlin) At the time he</p> <p>24 initially came to the emergency department via EMS,</p> <p>25 you would agree that Mr. Dunigan did not have severe</p>	<p style="text-align: right;">Page 132</p> <p>1 interpretation. The actual evidence that was a</p> <p>2 mechanical fall, that his cane tip slipped or</p> <p>3 something happened is something I don't see in the</p> <p>4 record. The nurse said he was dizzy, and the</p> <p>5 patient struck the ground after a fall. There was</p> <p>6 no loss of consciousness, despite what Dr. Schwartz</p> <p>7 says, and I think it probably is a mechanical fall.</p> <p>8 But it is not a mechanical fall as described by the</p> <p>9 patient, I didn't think.</p> <p>10 That was the conclusion made, but I think</p> <p>11 that to ignore the fact that the guy had heart</p> <p>12 disease, was dizzy, and not evaluate his cardiac</p> <p>13 condition is one of the questions in the care that I</p> <p>14 assume will be addressed by the emergency room</p> <p>15 expert for the plaintiffs. That is Saul Levine.</p> <p>16 Q. Did Mr. Dunigan give the history that his</p> <p>17 chest pain complaints were caused by a fall where he</p> <p>18 hit his chest or right flank?</p> <p>19 A. Yes, but that's not to say it is</p> <p>20 mechanical, if you are dizzy. Dr. Schartz thinks he</p> <p>21 arrhythmia then. I don't see evidence for either as</p> <p>22 being definitive. I suppose you can call it a</p> <p>23 mechanical fall because he hit the ground, but what</p> <p>24 caused the fall. That is the ultimate question</p> <p>25 about whether it is mechanical or not.</p>

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<p style="text-align: right;">Page 133</p> <p>1 Q. Given his history of a fall, which the 2 patient reported, was the source of his chest pain 3 was he reasonably screened when he was in the 4 emergency department? 5 MR. HARRINGTON: Objection to form. 6 THE WITNESS: You want to talk standard of 7 care for the emergency room evaluation? I thought 8 that was going to be somebody else? 9 MR. HARRINGTON: Doctor, go ahead. He 10 asked you a question. Go ahead and answer as you 11 see fit. 12 THE WITNESS: I think anybody with a known 13 cardiac disease, previous MI on dialysis with a fall 14 with chest discomfort needs to be put on an EKG 15 monitor and have a 12-lead electrocardiogram done at 16 a minimum, as well as having lab work done about the 17 status of his metabolic situation as a diabetic with 18 end stage renal disease. 19 Q. Do you recognize this is not a negligence 20 or a malpractice case? 21 A. Yes. 22 MR. HARRINGTON: Well, I would object. 23 That is currently pending in this action. 24 MR. O'LOUGHLIN: That is the one we are 25 taking the deposition in, Jim. I guess we are going</p>	<p style="text-align: right;">Page 135</p> <p>1 complaint that wouldn't have been things that I 2 would have been responsible for, or the way I would 3 have said them. They were prepared at the beginning 4 of the case by the attorneys involved and some of 5 the things in that are not the things that I would 6 have put in. 7 Q. Do you recall my question? 8 A. Yes. 9 Q. My question was, among the things you 10 reviewed, on the list of things that you reviewed 11 were the Complaint and Amended Complaint, true? 12 A. Yes. 13 Q. Do you understand the case against Bronson 14 Methodist Hospital are pending currently in federal 15 court in which they supposedly today allege any 16 liability on the part of Bronson other than for an 17 alleged violation of EMTALA? 18 A. I think that is the bulk of the Complaint. 19 What I am referring to is the historical description 20 in the Complaint that describes his condition. 21 Q. Assuming that the only theory of liability 22 against Bronson, in this pending lawsuit, is for a 23 violation of EMTALA. You have agreed that Bronson 24 did not violate EMTALA at any point up until Mr. 25 Dunigan was discharged from the emergency room</p>
<p style="text-align: right;">Page 134</p> <p>1 to have to take his deposition again. 2 MR. HARRINGTON: Yes, I know. We will. 3 That's what I am saying, we will. When you said 4 this case, I don't know if you are referring to 5 solely the case number, you know, that has a EMTALA 6 case or in a broad sense the case referring to the 7 care and treatment of Mr. Dunigan. 8 MR. O'LOUGHLIN: To my knowledge there is 9 no other case. 10 MR. HARRINGTON: Not yet. 11 MR. O'LOUGHLIN: Which means at present, 12 when I am asking the question there is no other 13 case, true? 14 MR. HARRINGTON: No, there has not been 15 one filed. I just want to make sure our definitions 16 of the case are the same. Sometimes physicians 17 would use the word case as in the entire care and 18 treatment of the patient, and sometimes us lawyers 19 when we say case, all we are referring to is just 20 the current case number. That is all. I just want 21 to make sure we are on the same page. 22 Q. (By Mr. O'Loughlin) Doctor, amongst the 23 things you reviewed were the Complaint and Amended 24 Complaint, true? 25 A. I think there were comments in the</p>	<p style="text-align: right;">Page 136</p> <p>1 department to the waiting room, true? 2 A. Yeah. I think I said that before. 3 Q. After that time you would agree that there 4 was never another time when Mr. Dunigan presented to 5 the emergency room department seeking medical care, 6 true? 7 A. True. 8 Q. And you agree that based upon your review 9 and everything you have seen in the case, no one 10 from Bronson Hospital ever actually determined that 11 Mr. Dunigan had a life-threatening emergency medical 12 condition, true? 13 MR. HARRINGTON: Objection to form. 14 THE WITNESS: Yes. There is nothing that 15 says they thought that. No one asked him if he 16 wanted to be seen again as far as I could tell. 17 Q. (By Mr. O'Loughlin) And he never said he 18 wanted to be seen again, true? 19 A. Again, true. 20 Q. Mr. Harrington asked you about the nurses 21 interaction with Mr. Dunigan, and I believe he was 22 referring to him while he was in the waiting room. 23 Are you aware of any intervention between the nurses 24 or medical assistants sitting at the desk in the 25 video and Mr. Dunigan?</p>